



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,468	12/10/2001	Kenneth J. Greves	GREV / 03	7173

7590

01/17/2003

Wayne L. Jacobs
Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

EXAMINER

ALLEN, DENISE S

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 01/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,468

Applicant(s)

GREVES, KENNETH J.

Examiner

Denise S Allen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: the phrase “the device 20” (page 4 line 21) is unclear because the device is previously referred to with reference 10 and reference 20 is subsequently used to refer to the ends of the device. Suggested correction: replace the phrase “the device 20” with “the device 10”.

Appropriate correction is required.

Claim Objections

Claims 14 – 16 and 18 are objected to because of the following informalities: the limitation “said reflective material” (line 2) in claim 14 lacks antecedent basis because it has not been previously recited in claims 1 or 14. Suggested correction: make claim 14 dependent on claim 12. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6 – 8, 11, 12, 17, 19, 22, 27, 29, 30, 33, 38, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Taglieri.

Regarding claims 1 and 22, Taglieri teaches an apparatus comprising a structure (Figures 1 – 5) having first and second sides (front and back sides in all Figures) and being adapted to

Art Unit: 2872

removably attach to clothing (Figures 9A, 9B, 10A, and 10B), wherein said first and second sides are reflective (Claim 4 lines 2 – 3).

Regarding claims 6 and 29, Taglieri teaches said structure is substantially oblong (Figures 1, 4, and 5).

Regarding claim 7, Taglieri teaches said structure is substantially planar (Figures 8A– 8D).

Regarding claims 8 and 30, Taglieri teaches said structure is substantially rectangular (Figures 1, 4, and 5).

Regarding claims 11 and 27, Taglieri teaches said structure is manufactured from reflective material (Claim 1 line 2).

Regarding claims 12 and 33, Taglieri teaches reflective material is attached to said sides (Claim 1 line 2).

Regarding claims 17 and 38, Taglieri teaches said structure includes at least one aperture (Figure 1 reference 3).

Regarding claims 19 and 40, Taglieri teaches said structure includes radiused corners (Figure 1 the corners of reference 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 – 5 and 23 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri in view of Rass.

Regarding claims 2 – 4 and 23 – 25, Taglieri teaches an apparatus as described above. Taglieri does not teach said structure is adapted to fit within a pocket of a user.

Rass teaches a structure (Figures 4 and 7) adapted to fit within a pocket of a user's garment (column 3 lines 37 – 43). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the adaptation of fitting within a pocket of a garment of Rass in the apparatus of Taglieri in order to provide an alternative means of attaching the apparatus to the user.

Regarding claims 5 and 26, Rass teaches said structure is adapted to protrude out of the pocket when seated in the pocket of the user (column 3 lines 37 – 47).

Claims 9, 10, 13, 20, 31, 32, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri.

Regarding claims 9, 10, 31, and 32, Taglieri discloses the claimed invention except for the structure being 13 inches long by 2.5 inches wide by 0.25 inches thick. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select a structure that is 13 inches long by 2.5 inches wide by 0.25 inches thick, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would have been motivated to scale the size of the structure to be 13 inches long by 2.5 inches wide by 0.25 inches thick in order to increase the visibility of the structure.

Regarding claim 13, Taglieri discloses the claimed invention except for the reflective material being reflective tape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use reflective tape as the reflective material, since it has been held to be within the ordinary skill of workers in the art to select a known material on the basis of its suitability for the intended use. One would have been motivated to use reflective tape as the reflective material for the purpose of reducing the cost of the reflective surfaces.

Regarding claims 20 and 41, Taglieri discloses the claimed invention except for the radius of the corner being 0.25 inches. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the radius of the corners 0.25 inches, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would have been motivated to scale the size of the radius of the corners to be 0.25 inches in order to retain the substantially rectangular shape of the structure.

Claims 14 – 16, 18, 21, 34 – 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri in view of Carlson.

Regarding claims 14, 34, and 37, Taglieri teaches an apparatus as described above. Taglieri does not teach said structure includes at least one recessed area in said sides to accommodate said reflective material.

Carlson teaches a structure (Figure 2) including at least one recessed area (reference 19) in a side to accommodate a reflective material (reference 12). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the recessed area of Carlson in the structure of Taglieri in order to protect the edges of the reflective material.

Art Unit: 2872

Regarding claims 15 and 35, Taglieri in view of Carlson discloses the claimed invention except for the recessed area being 3.6 inches long by 2.1 inches wide by 0.2 inches deep. It would have been obvious to one of ordinary skill in the art at the time the invention was made to select a recessed area that is 3.6 inches long by 2.1 inches wide by 0.2 inches deep, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would have been motivated to scale the size of the recessed area to be 3.6 inches long by 2.1 inches wide by 0.2 inches deep in order to maximize the reflectivity of the structure.

Regarding claims 16 and 36, Taglieri in view of Carlson discloses the claimed invention except for the duplication of recessed areas. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the recessed areas, since it has been held that a mere duplication of working parts of a device involves only routine skill in the art. One would have been motivated to duplicate the recessed areas for the purpose of increased reflectivity.

Regarding claims 18 and 39, Taglieri teaches said structure including a pair of apertures (Figure 1 reference 3).

Regarding claim 21, Taglieri teaches an apparatus comprising a structure (Figure 1) having first and second opposite sides (front and back sides of reference 1) and being adapted to removably attach to clothing (Figures 9A, 9B, 10A, and 10B), wherein said first and second sides include two holes (reference 3). Taglieri does not teach said first and second sides including a recessed area.

Art Unit: 2872

Carlson teaches a structure (Figure 2) including at least one recessed area (reference 19) in a side to accommodate a reflective material (reference 12). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the recessed area of Carlson in the structure of Taglieri in order to protect the edges of the reflective material.

Taglieri in view of Carlson discloses the claimed invention except for the duplication of recessed areas. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the recessed areas, since it has been held that a mere duplication of working parts of a device involves only routine skill in the art. One would have been motivated to duplicate the recessed areas for the purpose of increased reflectivity.

Taglieri in view of Carlson discloses the claimed invention except for the duplication of holes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the holes, since it has been held that a mere duplication of working parts of a device involves only routine skill in the art. One would have been motivated to duplicate the holes for the purpose of increased attachment points.

Taglieri in view of Carlson discloses the claimed invention except for the reflective material being reflective tape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use reflective tape as the reflective material, since its has been held to be within the ordinary skill of workers in the art to select a known material on the basis of its suitability for the intended use. One would have been motivated to use reflective tape as the reflective material for the purpose of reducing the cost of the reflective surfaces.

Regarding claim 37, Taglieri discloses the claimed invention except for the reflective material being reflective tape. It would have been obvious to one having ordinary skill in the art

Art Unit: 2872

at the time the invention was made to use reflective tape as the reflective material, since its has been held to be within the ordinary skill of workers in the art to select a known material on the basis of its suitability for the intended use. One would have been motivated to use reflective tape as the reflective material for the purpose of reducing the cost of the reflective surfaces.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taglieri in view of Sullivan.

Taglieri teaches a structure as described above. Taglieri does not teach the structure being manufactured of a flexible material.

Sullivan teaches a structure manufactured of a flexible material (Figure 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the flexible material of Sullivan in the structure of Taglieri in order to make the structure more comfortable for the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise S Allen whose telephone number is (703) 305-7407. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on (703) 308-1687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Application/Control Number: 10/016,468
Art Unit: 2872

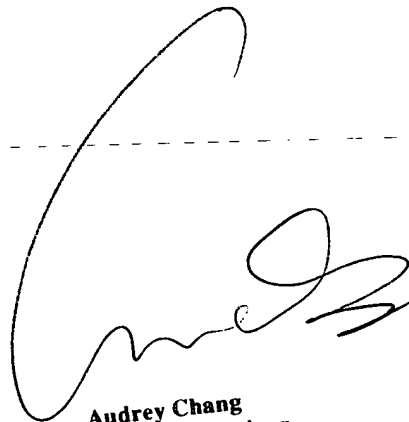
Page 9

A handwritten signature in black ink, appearing to be 'DSA'.

dsa

January 9, 2003

Denise S Allen
Examiner
Art Unit 2872

A large, stylized handwritten signature in black ink, appearing to be 'Audrey Chang'.

Audrey Chang
Primary Examiner
Technology Center 2800